

# **EXHIBIT A**

**Affidavit Of Mark G. Tully**

I, Mark G. Tully, on oath depose and state that:

1. I am a Special Agent with the Drug Enforcement Administration ("DEA") and I have been so employed for approximately eight (8) years. Since approximately January 2001, I have been assigned to the Boston Field Division. Prior to that, I was assigned for approximately five (5) years to the New York Field Division. Prior to my employment with DEA, I was an officer of the United States Army for approximately three years. During my career, I have received specialized narcotics training from DEA and I have participated in over one hundred narcotics cases and investigations, involving the interviewing and use of cooperating individuals and other witnesses, electronic surveillance, pen registers, physical surveillance, controlled purchases of drugs, analysis of telephone and other records, and other investigative techniques. I have testified as a DEA agent before the grand jury on numerous occasions and in approximately ten (10) federal trials in the District of Massachusetts, the District of Maine, the Southern District of New York, and the Eastern District of New York.

2. I am submitting this affidavit in support of a criminal complaint against (1) Domingo Vega, a/k/a "Mingo" (DOB - 7/27/76); (2) Julio Franco, a/k/a "Ramon" (DOB - 12/19/62); (3) Jose Rafael Santiago, a/k/a "Raffi" (DOB - 11/6/71); and (4) Mark Osorio (DOB - 7/23/82) charging each with conspiracy to possess with intent to distribute more than five (5) kilograms of cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. § 846. In addition, I am submitting this affidavit in support of search warrants for Julio Franco's residence, a townhouse apartment located at 11 Kings Hill Drive in Lynn, Massachusetts, and Julio Franco's automobile, a 1996 black Dodge Intrepid, bearing a Massachusetts registration number of 82 WA 04 and a Vehicle Identification Number of 2B3HD46T2TH275323. As set forth more fully below, the apartment and the automobile have been secured by DEA agents since late last night (November 9) pending the issuance of search warrants. The automobile is parked in front of the residence.

3. Since early October 2003, I have been involved in a narcotics investigation resulting in the charge listed above. I have not included in this affidavit each and every fact known to me as a result of the investigation but rather only those facts that establish probable cause to support the criminal charge and the issuance of the requested search warrants. The facts set forth in this affidavit are based on my personal participation in this investigation as well as on information provided to me by other DEA agents, other law enforcement officers, and public and

private records.

4. On Friday, November 7, 2003, I submitted an affidavit in support of an application to conduct electronic surveillance on a prepaid T-Mobile cellular telephone with the number (617) 818-0545. While T-Mobile subscriber records did not list any name or address for the subscriber of the telephone, the prior investigation in which I participated revealed that it was used frequently by a male known only as "Ramon" to have conversations with various other drug traffickers. The wiretap application was approved by United States District Judge Douglas P. Woodlock on November 7, 2003 and the wiretap was activated at approximately 1:05 p.m. on that date.

5. At 1:19 p.m. on November 7, DEA monitors intercepted an incoming call to "Ramon" from a man who identified himself as "Mingo" and who stated that "the Mexicans" were coming tomorrow. "Mingo" further stated that it was a "sure thing" and that it was "definitely" happening. At one point, "Ramon" asked how much was coming and "Mingo" replied "seis manos" (six hands). Based on my training and experience, as well as my involvement in this investigation, I believe that this was a reference to thirty (30) kilograms of cocaine (five fingers on a hand times six). "Ramon" indicated that he was supposed to be traveling to the Dominican Republic the next day (Saturday, November 8) but that he would be canceling the trip. As the conversation progressed, "Ramon" stated that "my security blanket here is the parking," that Nancy is "cool," and that everything was "all set up here." "Ramon" also indicated that "we need to put the car in a place where Nancy knows where it is" and that they would go to "take everything out" and "pick up." As the conversation progressed, "Ramon" and "Mingo" discussed who they would give "it" to, specifically mentioning people named "Manolo," "Alexander," and "Candelo," and "Mingo" indicated that the Mexicans would call him when it was here. Based on my training and experience, and my involvement in this investigation, I believe that "Ramon" and "Mingo" were discussing a plan to obtain thirty (30) kilograms of cocaine from Mexican sources of supply and to distribute the cocaine to workers or distributors in Massachusetts.

6. As set forth more fully below, "Ramon" was subsequently identified as Julio Franco, residing in a townhouse apartment at 11 Kings Hill Drive in Lynn, and "Mingo" was subsequently identified as Domingo Vega, residing in an apartment at 106 Hyde Park Avenue in the Hyde Park section of Boston. Based on database checks and further intercepted calls, "Nancy" was identified as Nancy Rios Franco, Julio Franco's wife. Records maintained by the NCIC Interstate Identification Index indicate

that Julio Franco has used an alias of "Ramon Mercedes" with the same social security number but a different date of birth.

7. At 1:38 p.m. on November 7, DEA monitors intercepted another lengthy conversation between Franco and Vega in which Franco stated that he was going to get a "parking space" (i.e., a storage facility) for a car, that he had a car in a particular location, and that "nobody has seen me touching the car or anything like that." Franco also stated that "Raffi has been staying here for a few days" and they discussed how much Franco had paid Raffi in the past "when we did the heavy stuff." DEA monitors intercepted further calls on November 7 in which Franco indicated that he was collecting money from different persons and that something was coming in. Based on my training and experience, and my involvement in this investigation, I believe that Franco was putting together a large sum of money to pay for the thirty kilograms of cocaine and that the money he had was being secreted inside an automobile owned or controlled by him. During the investigation, "Raffi" was identified as Jose Rafael Santiago, residing in an apartment at 476 Metropolitan Avenue in the Roslindale section of Boston.

8. On November 7, DEA monitors intercepted calls indicating that Franco and his wife used a telephone at 11 Kings Hill Drive in Lynn. That afternoon, DEA agents set up surveillance at that address and observed a woman subsequently identified as Nancy Rios Franco arrive at this address with a man subsequently identified as "Raffi" (Santiago) in a 1994 blue Audi registered to Santiago. That night, "Ramon" (Julio Franco) arrived at the address in a 1996 black Dodge Intrepid, bearing a Massachusetts registration number of 82 WA 04, and registered to Julio Franco at 11 Kings Hill Drive in Lynn.

9. On Saturday, November 8, 2003, DEA monitors intercepted various calls in which persons contacted "Ramon" (Julio Franco) concerning when it would be arriving. "Ramon" also had conversations with "Mingo" (Vega) asking him when it would be arriving, what they would do when it arrived, and how much they would sell it for after it arrived. "Ramon" also called a travel agency, identified himself as Julio Franco, and canceled his flight to the Dominican Republic. DEA monitors also intercepted calls in which "Ramon" instructed his wife to obtain a storage facility and she indicated that she obtained one. During one conversation, "Ramon" (Julio Franco) and "Mingo" (Vega) were discussing the Mexicans, specifically what was taking so long, and "Mingo" stated that a van with "52 passengers" (52 kilograms of cocaine) was on its way. Based on my training and experience, and my involvement in this investigation, I believe that "Ramon"

(Julio Franco) was waiting for the load of cocaine to arrive and that he intended to store the cocaine inside an automobile, which would be stored inside the storage facility obtained by his wife.

10. On the evening of Sunday, November 9, 2003, DEA surveillance agents observed "Ramon" (Julio Franco) traveling from 11 Kings Hill Drive in Lynn to an automobile show at the Expo Center in Boston and then back to Lynn. As this was occurring, at 6:42 p.m., DEA monitors intercepted a further call from "Mingo" (Vega), who asked where "Raffi" (Santiago) was and who stated that "these people are ready." After "Ramon" asked what he needed to do, "Mingo" stated: "get the money and come right down." "Ramon" stated that he would get to the house. After hanging up with "Mingo" (Vega), "Ramon" called "Raffi" (Santiago). As he was doing this, "Ramon" stated to a person who accompanied him to the auto show that "we have to give almost eight hundred up front." "Raffi" stated that he was in Worcester. "Ramon" instructed "Raffi" to leave right away "and come to my house." I believe that "Ramon" (Julio Franco) was indicating that he had to pay almost \$800,000 for the cocaine and that he was instructing "Raffi" (Santiago) to leave Worcester to pick up the cocaine.

11. After hanging up with "Raffi" (Santiago), "Ramon" (Julio Franco) called "Mingo" (Vega) and stated that "Raffi" was still in Worcester. "Mingo" stated that "we can't be carrying shit" (i.e., "Ramon" and "Mingo") and that "the stuff" (i.e., the cocaine) was already there. "Ramon" and "Mingo" jointly decided to have "Raffi" travel directly from Worcester to Providence, Rhode Island rather than go to "Ramon's" residence in Lynn. In a subsequent call, "Mingo" informed "Ramon" that he spoke to "Raffi" and told him to go directly to Providence. "Ramon" stated that he already had "five plus" (i.e., \$500,000) in the "casuela" (trunk or trap) and that he could not fit anything else in there. "Ramon" and "Mingo" jointly decided that they would have to make two trips and that they would leave some of the money in Boston.

12. After these conversations, DEA surveillance agents observed "Ramon" (Julio Franco) arrive at 11 Kings Hill Drive in Lynn. "Ramon" was observed entering a 1996 black Volkswagon Jetta, bearing a Massachusetts registration number of 83 ZY 06 and registered to a female resident of Roxbury, and driving away from Lynn toward Boston. DEA monitors intercepted further conversations indicating that "Ramon" and "Mingo" (Vega) met each other in Boston and that "Mingo" had taken the Volkswagon Jetta from "Ramon" and was driving it to Providence, Rhode Island.



13. On the night of November 9, a uniformed officer with the Massachusetts State Police stopped the Volkswagon Jetta as it was being driven southbound on Interstate Route 95 near the Massachusetts-Rhode Island state line. During this stop, the trooper identified the driver as Domingo Vega. The vehicle contained a male passenger identified as Mark Osorio, residing at 42 Harrison Archway in Boston. After this stop, the Volkswagon Jetta continued southbound on Route 95 toward Providence.

14. The Volkswagon Jetta was followed to the area of Van Buren Street in Providence, where it was parked. Both the driver and the passenger were observed exiting from the vehicle and walking into an alley between two residences. Shortly thereafter, other persons were observed coming out of the alley and engaging in what appeared to be counter-surveillance. At that time, two fire engines, with their horns and sirens sounding, came down the street and stopped in this area. Shortly thereafter, DEA surveillance agents observed a male emerge from the alley, walk around the block, enter the Volkswagon Jetta, and drive away. As this was occurring, "Raffi" (Santiago) called "Ramon" (Julio Franco) and stated that he had met with "Mingo" (Vega) but that "something weird" had happened and "we had to leave." "Raffi" added that "it seems Mingo was being followed" and that "Mingo didn't like it so we left ... he told me to forget about it and leave." "Raffi" indicated that "we didn't pick up the clothes" (i.e., the cocaine) and that he was driving the other car (i.e., the Volkswagon Jetta) back to Massachusetts.

15. The Volkswagon Jetta was followed as it was driven out of Providence, onto Route 95 northbound, and then onto Route 146 toward Worcester. At 10:08 p.m., DEA monitors intercepted a call from "Ramon" to "Mingo," who stated that the area had been full of "policemen" and that "we got out of there." "Mingo" also related that he had been stopped on his way over there (i.e., on his way down to Providence), that he had sent "Raffi" up there "with the car," and that "I have his car." Shortly after this conversation on November 9, the Volkswagon Jetta was stopped on Route 146 in Lincoln, Rhode Island. The driver was identified as Jose Rafael Santiago, a/k/a "Raffi." A search of the Volkswagon Jetta led to the recovery of a large sum of cash, believed to be in excess of \$500,000, in a secret compartment underneath the rear passenger seat. As this was occurring, "Ramon" attempted to call "Raffi's" telephone but there was no answer.

16. DEA agents then placed an alert to law enforcement agencies to look for "Raffi's" automobile, the 1994 blue Audi that had been observed in front of 11 Kings Hill Drive on Friday night, November 7. At about 11:00 p.m., a uniformed officer with the Massachusetts State Police observed the blue Audi driving northbound on Route 95. The trooper stopped the Audi on Route 95 in Mansfield, Massachusetts. The Audi was being driven by Domingo Vega, a/k/a "Mingo" and Mark Osorio was a passenger in the Audi. Both men were placed under arrest at the request of DEA.

17. After the above arrests, DEA agents went to 11 Kings Hill Drive in Lynn and, after knocking on the front door, were admitted into the apartment by Nancy Rios Franco. Julio Franco was not located at the apartment. Nancy Rios Franco initially consented to a search of the apartment but then retracted her consent, stating that she wished to see a search warrant. Ms. Franco and her two minor children were allowed to leave the apartment as DEA agents secured it and determined that nobody else was inside it. DEA agents have continued to secure the residence, pending the issuance of a search warrant. Julio Franco's unoccupied 1996 black Dodge Intrepid was observed parked in front of the residence and is still located there. At some point this morning, Ms. Franco returned to the apartment with her brother and is currently inside the apartment with the DEA agents.

18. Based on the foregoing, I submit that there is probable cause to believe that (1) Julio Franco, a/k/a "Ramon;" (2) Domingo Vega, a/k/a "Mingo;" (3) Jose Rafael Santiago, a/k/a "Raffi;" and (4) Mark Osorio knowingly and intentionally conspired with each other, and with other unknown persons, to possess with intent to distribute more than five (5) kilograms of cocaine, in violation of 21 U.S.C. § 846.

19. Based on the foregoing, I also submit that there is probable cause to search 11 Kings Hill Drive in Lynn and the 1996 black Dodge Intrepid registered to Julio Franco for the items listed on Attachment A, which is attached hereto and incorporated by reference herein. Based on this investigation, I know that 11 Kings Hill Drive is a two-story townhouse apartment, with a brick front and a tan door and that the number "11" is posted in black letters to the left of the tan door. I also know that the 1996

black Dodge Intrepid bears a Massachusetts registration number of 82 WA 04 and a Vehicle Identification Number of 2B3HD46T2TH275323.

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Mark G. Tully  
Special Agent, DEA

Subscribed and sworn to before me this 10<sup>th</sup> day of November 2003.

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Robert B. Collings  
U.S. Magistrate Judge